

Appl. No. 10/533,923  
Amdt. Dated April 11, 2006  
Reply to Office Action of January 11, 2006

### REMARKS

This application has been reviewed in light of the Action mailed on January 11, 2006. Claims 1 to 10 are currently pending in the present application. By the present amendment, claims 1, 3, 7 and 9 have been amended. Claims 2 and 8 are cancelled. No new matter or issues are believed to be introduced by the amendments.

Claims 1 to 10 stand rejected under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 6,408,187 to Merriam (hereinafter "Merriam"). Applicant respectfully submits that Merriam does not expressly or inherently disclose all of the elements set forth in independent claims 1 and 7. Thus, Merriam does not anticipate claim 1 or claims 3 to 6, which depend therefrom or claim 7 or claims 9 to 10, which depend therefrom.

It is an object of the present invention to provide a means for automatically informing a caller of what the owner of a mobile device is actually doing, when a call is received. Moreover, it is an object of the present invention to provide a voicemail greeting message that is automatically returned to a caller to alert the caller as to what the owner of the mobile device is doing, e.g. the voicemail greeting message may be a sound of traffic noise, making the caller aware that the user is driving at the moment of the call (see page 3, lines 15 to 21). Accordingly, claim 1 is now directed to a method of presenting an information item on a mobile device, the method comprising the steps of: retrieving an identification of at least one of user gear and apparel, the apparel providing the mobile device with information on the user's context or environment; determining a

Appl. No. 10/533,923  
Amdt. Dated April 11, 2006  
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mode reflecting at least one attribute of identified gear and apparel and optionally sending the mode with an identification of the mobile device to a service provider; determining and presenting the information item dependent on the mode, receiving a first message from a caller sent to said mobile device; determining a second message dependent on the mode, when the first message is received; and sending the second message to the caller as a response to said first message.

Merriam fails to disclose a method of presenting an information item on a mobile device, said method comprising the steps of: retrieving an identification of at least one of user gear and apparel, the apparel providing the mobile device with information on the user's context or environment; determining a mode reflecting at least one attribute of identified gear and apparel and optionally sending the mode with an identification of the mobile device to a service provider; determining and presenting the information item dependent on the mode, receiving a first message from a caller sent to the mobile device; determining a second message dependent on the mode, when the first message is received; and sending the second message to the caller as a response to the first message, as is now clearly claimed in claim 1. Specifically, Merriam fails to contemplate a means for determining a second message dependent on the mode, when the first message is received; and a means for sending the second message to the caller as a response to the first message.

Rather, Merriam is simply directed to a mechanism for automatically determining the behavior of a communications device based upon the likelihood that a user is within

Appl. No. 10/533,923  
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relatively close proximity to the communications device. The behavior determining mechanism disclosed in Merriam receives indications from sensors and, based upon the indications received, determines one or more appropriate behaviors for the communications device. Appropriate behaviors are defined by Merriam as activating a vibrating alert mechanism to cause the communications device to vibrate, activating a visual alert mechanism to cause a message to be displayed or a light to flash, or activating a communication *forwarding* mechanism to cause a communication to be *forwarded* to another communications device. Thus, by taking user proximity into account, Merriam simply discloses means for enabling a communications device to automatically adapt its behavior to conform to its immediate environment. A means for relaying collected information back to a caller is not described.

In contrast, the present invention, as now claimed in claim 1, not only collects information about its immediate environment, and provides the mobile device with such information regarding the user's context or environment, but the present invention discloses the additional steps of determining a second message dependent on the mode, when the first message is received; and sending the second message to the caller as a response to the first message, thereby *relaying that information back to a caller*. Accordingly, for at least these reasons, independent claim 1 is now clearly patentable over Merriam.

Claims 3 to 6 depend directly or indirectly from claim 1 and provide further features thereto. Accordingly, claims 3 to 6 are clearly distinguishable over Merriam for

Appl. No. 10/533,923  
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at least the reasons discussed with respect to claim 1. By way of example, the method disclosed in claim 3 discloses a step of determining a second message comprising the steps of: sending the mode with an identification of said mobile device to a service provider; and determining the second message based on the received mode and the identification of said mobile device on the service provider. Claim 4 is directed to a step of: modifying at least one attribute of gear and apparel. Claim 5 is directed to the method of claim 1, wherein the mobile device is a personal digital assistant, palm top, cell phone or a mobile phone. Claim 6 is directed to a computer program product comprising program code means stored on a computer readable medium for performing the method of any one of claims 1 through 5 when the computer program is run on a computer.

Claim 7 is directed to a mobile device for presenting an information item, the mobile device comprising: at least one identification reader for retrieving an identification of at least one of user gear and apparel; means for determining a mode reflecting at least one attribute of identified gear and apparel and means for optionally sending the mode with an identification of the mobile device to a service provider; means for determining and presenting the information item dependent on said mode; means for receiving a first message from a caller; means for determining a second message dependent on said mode, when said first message is received; and means for sending the second message to the caller as a response to said first message. As discussed with respect to claim 1, Merriam fails to disclose a means for presenting an information item on a mobile device comprising means for retrieving an identification of at least one of user gear and apparel, the apparel providing the mobile device with information on the

Appl. No. 10/533,923  
Amdt. Dated April 11, 2006  
Reply to Office Action of January 11, 2006

user's context or environment; means for determining a mode reflecting at least one attribute of identified gear and apparel and optionally sending the mode with an identification of the mobile device to a service provider; determining and presenting the information item dependent on the mode, receiving a first message from a caller sent to the mobile device; determining a second message dependent on the mode, when the first message is received; and sending the second message to the caller as a response to the first message, as is now clearly claimed in claim 7. Specifically, Merriam fails to contemplate a means for determining a second message dependent on the mode, when the first message is received; and a means for sending the second message to the caller as a response to the first message. Thus, claim 7 is distinguishable over Merriam for at least the reasons discussed with respect to claim 1. Claims 9 and 10 depend from claim 7 and provide further distinguishing features thereto and are, therefore, patentable over Merriam for at least the reasons discussed.

Accordingly, the rejections under 35 U.S.C. § 102(b) of claims 1 and 3 to 6 and claims 7 and 9 and 10 should be withdrawn and claims 1, 3 to 7 and 9 to 10 should be allowed.

### **Conclusion**

In view of the foregoing, Applicant respectfully submits that the specification, the drawings and all claims presented in this application are currently in condition for

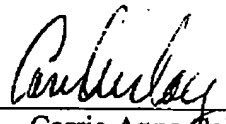
Appl. No. 10/533,923  
Amdt. Dated April 11, 2006  
Reply to Office Action of January 11, 2006

allowance. Accordingly, Applicant respectfully requests favorable consideration and that this application be passed to allowance.

Should any changes to the claims and/or specification be deemed necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

Applicant's representative believes that this response is being filed in a timely manner. In the event that any extension and/or fee is required for the entry of this amendment the Commissioner is hereby authorized to charge said fee to Deposit Account No. 14-1270. An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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